
STATUTORY RULES OF NORTHERN IRELAND

2014 No. 307

**The Nitrates Action Programme
Regulations (Northern Ireland) 2014**

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Nitrates Action Programme Regulations (Northern Ireland) 2014 and shall come into operation on 1st January 2015.

Purpose of and application of Regulations

2. These Regulations give effect to a Nitrates Action Programme throughout the territory of Northern Ireland, in accordance with Article 5 of Council Directive [91/676/EEC](#)(1) of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources. The measures in these Regulations also provide a basic level of protection against possible adverse impacts to waters arising from potential agricultural expansion, including that proposed under the “Going for Growth” plan.

Interpretation

3.—(1) The Interpretation Act (Northern Ireland) 1954((2) applies to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

“action programme” means measures regarding the protection of water against pollution caused by nitrates from agricultural sources as set out in Article 5 and Annex III of the Directive;

“adequate effluent collection facilities” means effluent collection facilities that meet the requirements of regulation 14 (4);

“agricultural area” means any land suitable for agricultural activities, including any common land used for grazing and excludes areas under farm roads, paths, buildings, woods, dense scrub, rivers, streams, ponds, lakes, sandpits, quarries, areas of peat cutting, bare rock, areas of forestry and areas fenced off or inaccessible other than forests where the use of the same is ancillary to the farming of land for other agricultural purposes;

“agricultural land” has the same meaning as in the Agriculture Act (Northern Ireland) 1949((3);

(1) OJL 375, 31.12.91, p. 1-8

(2) 1954 c.33 (N.I.)

(3) 1949 c.2 (N.I.)

“anaerobic digestate” means a stable, sanitised material resulting from the mesophilic and thermophilic biological decomposition and stabilisation of biodegradable waste carried out under controlled anaerobic conditions, and which can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land;

“Appeals Commission” means the Water Appeals Commission for Northern Ireland as constituted in accordance with Article 292 of the Water and Sewerage Services (Northern Ireland) Order 2006(4);

“appropriate person” means—

- (a) the controller;
- (b) any person permitted by the controller to carry out, on their behalf, any activity described in these Regulations;
- (c) the owner of any storage facility used for the storage of livestock manure and silage effluent; and
- (d) any person using such storage facilities for the storage of livestock manure and silage effluent;

“authorised person” means a person authorised by the Department in accordance with Article 72 of the Order;

“available nitrogen” means forms of nitrogen that can be taken up by a crop immediately or within a short period;

“available phosphorus” means forms of phosphorus that can be taken up by a crop immediately or within a short period, the proportion of which contained in fertilisers is set out in Table 2 of Schedule 2 to the Phosphorus Regulations;

“chemical fertiliser” means any fertiliser in which the declared plant nutrients are in the form of minerals obtained by extraction or by physical and/or chemical industrial processes;

“chemical nitrogen fertiliser” means any fertiliser containing one or more nitrogen compounds which is manufactured or blended by an industrial process;

“chemical phosphorus fertiliser” means any fertiliser containing one or more phosphorus compounds which is manufactured or blended by an industrial process;

“Code of Good Agricultural Practice” means the “Code of Good Agricultural Practice for the Prevention of Pollution of Water, Air and Soil” published by the Department of Agriculture and Rural Development (as may from time to time be reissued);

“construct” includes install;

“controller” means in relation to a holding, the person charged with management of the holding for the calendar year in question and will be taken to be—

- (a) for calendar years prior to 2015 and in the absence of a written nitrates controller agreement to the contrary, the person claiming direct agricultural aid payments for the agricultural area or, where direct agricultural aid payments are not being claimed, the owner of the agricultural area; or
- (b) for calendar years from 2015, the person claiming direct agricultural aid payments for the agricultural area or, where direct agricultural aid payments are not being claimed, the person who enjoys the decision making power, benefits and financial risks in relation to the agricultural activity carried out on the land.

“crop requirement” means the amount of nitrogen, phosphorus and other plant nutrients in fertiliser which is reasonable to apply to land in any year for the purpose of promoting the growth of the crop having regard to the foreseeable nutrient supply to the crop from the soil

and from other sources, including any previous applications of livestock and other organic manure and any chemical fertilisers estimated as described in the fertiliser technical standards and, with regard to nitrogen, regulations 9, 10, and 11 of these regulations;

“Department” means the Department of the Environment;

“Departments” mean the Department of the Environment and the Department of Agriculture and Rural Development acting jointly;

“derogated holding” means a holding over which a derogation has been granted;

“derogation” means a derogation from the limit of livestock manure that can be applied to land each year as provided for in paragraph 2(b) of Annex III of the Directive and approved by the Department which is valid for one calendar year;

“derogation application” means an application for derogation submitted by the controller using a form provided by the Department;

“direct agricultural aid payments” means the Basic Payment Scheme as referred to in Title III of Regulation (EU) No 1307/2013⁽⁵⁾ and/or Payments to areas facing natural or other specific constraints as referred to in Article 31 of Regulation (EU) No 1305/2013⁽⁶⁾;

“Directive” means Council Directive 91/676/EEC⁽⁷⁾ of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources;

“dirty water” means water contaminated by organic manure, urine, effluent, milk and cleaning materials with a Biochemical Oxygen Demand (BOD) no greater than 2000 mg/litre and total nitrogen and dry matter contents no greater than set out in Table 2 of Schedule 1;

“environment” means any or all of the following media, namely the air, water and land;

“farmyard manure” means a mixture of bedding material and animal excreta in solid form arising from the housing of cattle, sheep and other livestock, excluding poultry manure, but including spent mushroom compost and the stackable solids fraction from mechanical separation of slurry excluding pig slurry;

“fertilisation account” means an account prepared in accordance with regulation 12(5);

“fertilisation plan” means a plan prepared in accordance with regulation 12(4);

“fertiliser” means any substance containing plant nutrients utilised on land to enhance growth of vegetation and may include livestock manure, the residues from fish farms and sewage sludge;

“fertiliser technical standards” means—

- (a) the “DEFRA Fertiliser Manual (RB209) 8th Edition” (as may from time to time be reissued) and any supplementary guidance;
- (b) with regards to phosphorus recommendations for grassland, Table 1 of Schedule 2 to the Phosphorus Regulations; and
- (c) any other publication by DEFRA or the Departments substituting any of the standards referred to in sub-paragraphs (a) and (b);

“forage crop” means any crop grown as food for animals;

“Going for Growth” is a strategic action plan in support of the Northern Ireland Agri-Food Industry, published electronically in May 2013 by the Northern Ireland Agri-Food Strategy Board;

“grassland” means any land on which the vegetation consists predominantly of grass species;

⁽⁵⁾ OJL 347, 20.12.13, p. 865-883

⁽⁶⁾ OJL 347, 20.12.13, p. 487-547

⁽⁷⁾ OJL 375, 31.12.91, p. 1-8

“grassland holding” means a holding where 80 % or more of the agricultural area available for manure application is cultivated with grass;

“grazing livestock” means cattle (with the exclusion of veal calves), sheep, deer, goats and horses;

“heavy rain” means more than 4 mm of rain per hour;

“holding” in relation to a controller means all the agricultural area managed by that controller;

“lake” means a body of standing inland surface water;

“land application” means the addition of materials to agricultural land whether by spreading on the surface of the land, injection into the land, placing below the surface of the land or mixing with the surface layers of the land but does not include the direct deposition of manure onto land by animals;

“livestock” means any animal kept for use or profit;

“livestock enterprise” means any enterprise where livestock are kept;

“livestock manure” means waste products excreted by livestock, or a mixture of litter and waste products excreted by livestock, even in processed form;

“midden” means a storage facility with an impermeable base for solid, stackable organic manure;

“nitrates controller agreement” means, for any stipulated calendar years prior to 2015, a written agreement transferring responsibility for compliance with these Regulations and the Phosphorus Regulations for a defined agricultural area from—

- (a) the person claiming direct agricultural aid payments for the agricultural area; or
- (b) where direct agricultural aid payments are not being claimed, the owner of the agricultural area

to a third person who enjoys the decision making power, benefits and financial risks in relation to the agricultural activity carried out on the defined agricultural area;

“nitrogen compound” means any nitrogen-containing substance except for gaseous molecular nitrogen;

“nitrogen fertiliser” means any substance, including chemical fertiliser, containing one or more nitrogen compounds utilised on land to enhance growth of vegetation;

“notice” means notice in writing;

“the Order” means the Waste and Contaminated Land (Northern Ireland) Order 1997⁽⁸⁾;

“organic manure” means—

- (a) livestock manure; and
- (b) fertiliser, not being livestock manure or chemical fertiliser, derived from organic matter, and includes sewage sludge, residues from fish farms and other organic wastes;

“phosphorus fertiliser” means any substance, including chemical fertiliser, containing one or more phosphorus compounds utilised on land to enhance growth of vegetation;

“Phosphorus Regulations” means the Phosphorus (Use in Agriculture) Regulations (Northern Ireland) 2014⁽⁹⁾;

“pig enterprise” means any enterprise with more than 10 breeding sow places or 150 finishing pig places;

“poultry enterprise” means any enterprise with more than 500 places;

(8) S.I. 1997/2778 (N.I. 19)

(9) S.R. 2014 No. 308

“poultry litter” means a mixture of bedding material and poultry manure arising from the housing of poultry and with a dry matter content not less than 55 %;

“public” means such persons as appear to the Departments—

- (a) to be representative of those carrying on any business which—
 - (i) is, or is likely to be, directly affected by the action programme; or
 - (ii) relies upon the water environment; or
- (b) to have an interest in the protection of the water environment;

“reception pit” means a pit used for the collection of slurry before it is transferred into a slurry storage tank or for the collection of slurry discharged from such a tank;

“scientific case” means a reasoned case, as set out in guidance issued on these Regulations, designed to demonstrate that the proposed deviation from the values set out in Tables 1a to 1c or 2 of Schedule 1 will have no worse effect on the environment than that caused by using the aforementioned values;

“silage” means any forage crop which is being, or has been, conserved by fermentation or preservation (including the use of additives), or both, and which is intended for consumption by animals;

“silage effluent” means—

- (a) effluent produced from any forage crop which is being made, or has been made, into silage; and
- (b) a mixture consisting wholly of or containing such effluent, rain or water coming from a silo, silage effluent collection system or drain;

“silo” means any structure used for making or storing silage;

“slurry” means—

- (a) excreta produced by livestock whilst in a yard or building;
- (b) a mixture of such excreta with bedding, rainwater, seepage, washings or any other extraneous material from a building or yard used by livestock or in which livestock manure is stored; or
- (c) any other organic manure or any combination of these, of a consistency that allows it to be pumped or discharged by gravity at any stage in the handling process and includes dirty water that is stored with slurry or mixed with slurry;

“slurry storage system” means—

- (a) a slurry storage tank;
- (b) any reception pit and any effluent tank used in connection with the slurry storage tank; and
- (c) any channels and pipes used in connection with the slurry storage tank, any reception pit or any effluent tank;

“slurry storage tank” includes a lagoon, pit (other than a reception pit) or tower used for the storage of slurry.

“soil phosphorus index” means the index number (0 to 4) assigned to the soil in accordance with Schedule 1 to the Phosphorus Regulations to indicate the amount of phosphorus available from the soil to the crop;

“steeply sloping land” means land which has an average incline of 20 % or more in the case of grassland or 15 % or more in the case of other land;

“total nitrogen” means the sum of all nitrogen forms including nitrate, nitrite, ammonia and organic nitrogen;

“underground strata” has the same meaning as in Article 2(2) of the Water (Northern Ireland) Order 1999((10);

“Waste Regulations” means the Waste Management Licensing Regulations (Northern Ireland) 2003(11);

“water pollution” means the discharge, directly or indirectly, of nitrogen compounds from agricultural sources into the aquatic environment, the results of which are such to cause hazards to human health, harm to living resources and to aquatic ecosystems, damage to amenities or interference with other legitimate uses of water;

“waterlogged” means soil where water appears on the surface of the land when pressure is added; and

“waterway” has the same meaning as in Article 2(2) of the Water (Northern Ireland) Order 1999.

(3) A requirement in these Regulations for a silo or slurry storage tank to conform to a British Standard (in whole or in part) is satisfied if the silo or tank conforms to a standard or specification that provides an equivalent level of protection and performance and is recognised for use in a member State, Iceland, Liechtenstein, Norway or Turkey.

(10) S.I. 1999/662 (N.I. 6)

(11) S.R. 2003 No. 493